

Serial No.: 10/552,857

Response to Office Action mailed: January 29, 2009

Amendment Dated: March 30, 2009

REMARKS/ARGUMENTS

This is in response to the restriction requirement mailed January 29, 2009 for the above-captioned application. An extension of time sufficient to make this paper timely is requested and the appropriate fee is enclosed.

Amendments to the specification have been made to address the sequence-based objection made by the Examiner.

The Examiner divided the claims into sixteen groups. Groups I-VIII identified nucleic acids by the protein encoded, and Groups IX-XVI were claims directed to the corresponding proteins. Applicants **traverse** this restriction.

The restriction requirement as set forth by the Examiner does not take into account all of the claimed subject matter, and inappropriately tries to define the invention solely based on individual sequences. For example, the construct as recited in prior claim 37 required two or more nucleic acids sequence encoding two or more of the sequences from the set of CHS, BAN and LAR. This is the invention that Applicants choose to elect in this application. However, no option from election of this invention was offered by the Examiner.

Second, it is noted that the reference cited as establishing a lack of unity makes no showing with respect to a construct as recited in prior claim 37. It merely discloses a chalcone synthetase (and not one from *Trifolium*), but not a construct as claimed, and as elected. Thus, there is no basis for the lack of unity assertion with respect to construct.

To facilitate examination, all of the prior claims have been canceled and a new set of construct claims, claims 62-76 are presented. All of these claims are believed to read on the elected invention, namely a construct as in prior claim 38 (original claim 7).

Respectfully submitted,



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